

AMENDED IN SENATE JUNE 14, 2012

AMENDED IN ASSEMBLY MAY 1, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2595

Introduced by Assembly Member Hall
(Coauthor: Senator Price)

February 24, 2012

An act to add Section 35616 to the Public Resources Code, relating to water, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2595, as amended, Hall. Desalination.

The Cobey-Porter Saline Water Conversion Law authorizes the Department of Water Resources, either independently or in cooperation with public or private entities to conduct a program of investigation, study, and evaluation in the field of saline water conversion, to provide assistance to persons or entities seeking to construct desalination facilities, and after submission of a written report and upon appropriation from the Legislature, to finance, construct, and operate saline water conversion facilities. Existing law required the department, not later than July 1, 2004, to report to the Legislature on potential opportunities and impediments for using seawater and brackish water desalination, and to examine what role, if any, the state should play in furthering the use of desalination technology. Existing law also required the department to convene a Water Desalination Task Force, comprised of representatives from listed agencies and interest groups, to advise the

department in carrying out these duties and in making recommendations to the Legislature.

The California Ocean Protection Act establishes the Ocean Protection Council in state government. Existing law requires the Ocean Protection Council to coordinate activities of state agencies that are related to the protection and conservation of coastal waters and ocean ecosystems to improve the effectiveness of state efforts to protect ocean resources within existing fiscal limitations, to establish policies to coordinate the collection, evaluation, and sharing of scientific data related to coastal and ocean resources among agencies, and to identify and recommend to the Legislature changes in law needed to achieve these goals.

This bill would require the council to report to the Legislature, by December 31, 2014, on opportunities for streamlining the current statewide permitting processes for seawater desalination facilities, including an evaluation of impediments to desalination projects relative to the current permitting process and to recommend potential administrative and legislative actions for improving the permitting process while maintaining current regulatory protections. The bill would require the council to convene the Seawater Desalination Permit Improvement Task Force to review the current permitting processes required by all state regulatory agencies for the planning, design, construction, monitoring, and operation of seawater desalination facilities, to identify opportunities for improving the permitting process, and to advise the council in making the report.

~~Existing law, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, an initiative bond act approved by the voters as Proposition 84 at the November 7, 2006, statewide general election, authorizes the issuance of general obligation bonds in the amount of \$5,388,000,000, of which \$1,000,000,000 is made available to the department, upon appropriation by the Legislature, for grants for projects that assist local public agencies to meet the long-term water needs of the state, including the delivery of safe drinking water and the protection of water quality and the environment. Eligible projects are required to implement integrated regional water management plans that meet certain requirements.~~

Existing law, the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002, an initiative measure approved by the voters as Proposition 50 at the November 5, 2002, statewide general election, authorizes, for the purposes of financing a safe drinking water, water quality, and water reliability program, the issuance of bonds in

the amount of \$3,440,000,000, of which \$100,000,000 is available, upon appropriation by the Legislature, to the department for grants for specified projects, including, but not limited to, at least \$50,000,000 for the desalination of ocean or brackish waters, as prescribed.

This bill would appropriate \$250,000 of these funds to the department to pay the costs of convening the Seawater Desalination Permit Improvement Task Force and preparation of the report.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) A growing population, climate change uncertainty, and the
4 need to grow the state's economy while protecting and restoring
5 our fish and wildlife habitats make it essential that the state manage
6 its water resources as efficiently as possible.

7 (b) Diversifying regional water supply portfolios will increase
8 water supply reliability and advance state policies for regional
9 self-sufficient water supplies. In addition to stormwater capture,
10 water recycling, and conservation, ~~water agencies~~ *suppliers* located
11 in coastal areas are considering seawater desalination to help
12 diversify their water supply portfolios. These ~~water agencies~~
13 *suppliers* include seawater desalination as potential future supplies
14 in their most recent urban water management plans. Seawater
15 desalination projects are also elements of several integrated
16 regional water management plans.

17 (c) In addition to providing much needed water supply reliability
18 against future uncertainties, seawater desalination projects have
19 the potential to create new jobs in the state over the next 10 years
20 and generate much needed investment in local economies. Reverse
21 osmosis and other seawater desalination technologies were
22 pioneered and developed in California, and desalination technology
23 remains an important industrial sector in San Diego County and
24 other regions.

25 (d) Proponents for seawater desalination projects must obtain
26 close to 30 local, state, and federal permits and related approvals.
27 The procedure for obtaining key state permits is not always clear,
28 and there can be significant redundancy in the requirements

1 between some of the permitting agencies. As a result, both the cost
2 and the timeframe for obtaining state permits has become a
3 potential impediment for some proposed desalination projects.

4 (e) As a result of Chapter 62 of the Statutes of 2003 (Senate
5 Bill 600), a Water Desalination Task Force was convened and it
6 delivered a report to the Legislature that included the following
7 recommendation: “To improve communication, cooperation, and
8 consistency in permitting processes, encourage review processes
9 for each desalination project to be coordinated among regulators
10 and the public.”

11 (f) Section 12947 of the Water Code states the intent of the
12 Legislature that the Department of Water Resources undertake to
13 find economic and efficient methods of desalting saline water so
14 that desalted water may be made available to help meet the growing
15 water requirements of the state.

16 (g) Existing law requires the State Water Resources Control
17 Board to formulate and adopt a water quality control plan for ocean
18 waters of the state known as the California Ocean Plan. The board
19 is currently updating the California Ocean Plan with
20 environmentally protective, science-based regulations, specifically
21 for seawater desalination projects. These new regulations will be
22 implemented through existing national pollutant discharge
23 elimination system (NPDES) permits managed by regional water
24 quality control boards.

25 SEC. 2. Section 35616 is added to the Public Resources Code,
26 to read:

27 35616. (a) (1) Not later than December 31, 2014, the Ocean
28 Protection Council shall report to the Legislature on opportunities
29 for improving the current statewide permitting processes for
30 seawater desalination facilities in California. The report shall
31 investigate opportunities to improve the process. The report shall
32 also recommend potential administrative and legislative actions
33 for improving the permitting process while maintaining current
34 regulatory protections.

35 (2) The report submitted pursuant to this subdivision shall
36 comply with Section 9795 of the Government Code.

37 (3) This subdivision shall become inoperative on January 1,
38 2018, pursuant to Section 10231.5 of the Government Code.

39 (b) The Ocean Protection Council shall convene a task force,
40 to be known as the Seawater Desalination Permit Improvement

1 Task Force, to review the current permitting processes required
2 by all state regulatory agencies for the planning, design,
3 construction, monitoring, and operation of seawater desalination
4 facilities, to identify opportunities for improving the permitting
5 process, and to advise the Ocean Protection Council in
6 implementation of subdivision (a), including making
7 recommendations to the Legislature on the following:

- 8 (1) Establishing a clear permit process.
- 9 (2) Defining the regulatory scope for each permitting agency.
- 10 (3) Eliminating redundant requirements between California
11 permitting agencies.
- 12 (4) Describing the data needed to complete each permit.
- 13 (5) Developing best practices for communication among
14 regulatory agencies and the regulated community.
- 15 (6) Ensuring that any recommended changes do not negatively
16 affect current regulatory protections or the independent review of
17 an independent agency.

18 (c) (1) The recommendations developed by the Seawater
19 Desalination Permit Improvement Task Force shall focus on how
20 state regulations are applied by permitting agencies and
21 commissions during the permitting process.

22 (2) The recommended actions should review the scope for each
23 permitting agency and commission, without negatively affecting
24 current regulatory protections or the independent review of an
25 independent agency.

26 (3) The recommended actions shall accommodate any new
27 policies developed by the State Water Resources Control Board
28 for the California Ocean Plan, the Department of Water Resources
29 for the 2013 California Water Plan, and any other relevant agency.

30 (4) The recommended actions should be made in consideration
31 of the 2004 Seawater Desalination and the California Coastal Act
32 report prepared by the California Coastal Commission, the 2003
33 report prepared by the California Water Desalination Task Force
34 pursuant to Chapter 957 of the Statutes of 2002, and the 2008
35 California Desalination Planning Handbook prepared by the Center
36 for Collaborative Policy at California State University, Sacramento.

37 (5) The recommendations shall discuss how the desalination
38 should fit in as an element of a balanced state water portfolio that
39 includes conservation and water recycling to the maximum extent
40 possible.

1 (d) (1) In addition to the Ocean Protection Council, the Seawater
2 Desalination Permit Improvement Task Force shall include one
3 representative from each of the following state entities:
4 (A) Department of Water Resources.
5 (B) State Water Resources Control Board.
6 (C) California Coastal Commission.
7 (D) State Lands Commission.
8 (E) State Department of Public Health.
9 (2) The Seawater Desalination Permit Improvement Task Force
10 shall include one representative from each of the following, as
11 determined by the Ocean Protection Council:
12 (A) Commission for Economic Development.
13 (B) State Energy Resources Conservation and Development
14 Commission.
15 (C) A recognized environmental advocacy group.
16 (D) ~~Two~~ *Three* separate and broadly recognized environmental
17 advocacy groups that focus on coastal protection.
18 (E) A water purveyor, as defined in Section 512 of the Water
19 Code, that is a public entity, as defined in Section 514 of the Water
20 Code, that is developing or proposing to develop a seawater
21 desalination facility.
22 (F) An entity that supplies water at wholesale to urban water
23 suppliers, as defined in Section 10617 of the Water Code.
24 (G) A nonprofit association created to further the use of seawater
25 desalination that includes both private and public members.
26 (H) A recognized environmental justice advocacy group.
27 (I) A recognized business advocacy group.
28 (J) A recognized organization representing public union
29 members.
30 (K) A recognized organization representing private union
31 members.
32 (L) California Environmental Protection Agency.
33 (M) Natural Resources Agency.
34 (N) Department of Parks and Recreation.
35 (O) Department of Fish and Game.
36 (P) *A recognized nonprofit association representing water*
37 *companies regulated by the Public Utilities Commission.*
38 (3) The Seawater Desalination Permit Improvement Task Force
39 shall include one representative from each coastal regional water

1 quality control board provided that representatives are available
2 to participate.

3 (4) A member of the Seawater Desalination Permit Improvement
4 Task Force may appoint an alternate to represent the member at a
5 meeting of the task force.

6 (5) A representative of the Ocean Protection Council shall
7 convene the Seawater Desalination Permit Improvement Task
8 Force and act as chair of the task force.

9 (6) The representatives identified in paragraphs (2) and (3) shall
10 have a nonvoting advisory role.

11 (e) The report required in paragraph (1) of subdivision (a) shall
12 be adopted by majority vote of the representatives identified in
13 paragraphs (1) and (5). In the case of a tie vote, the chair shall vote
14 again to break the tie.

15 (f) Pursuant to Section ~~75026~~ 79545, the sum of two hundred
16 fifty thousand dollars (\$250,000) is hereby appropriated to the
17 Department of Water Resources for expenditure by the department
18 to pay the costs for convening the Seawater Desalination Permit
19 Improvement Task Force and for preparation of the report pursuant
20 to subdivision (a).